

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA GAS COMPANY for authority to update its gas revenue requirement and base rates. (U 904 G)

Application 02-12-027
(Filed December 20, 2002)

Application of SAN DIEGO GAS & ELECTRIC COMPANY for authority to update its gas and electric revenue requirement and base rates. (U 902-M)

Application 02-12-028
(Filed December 20, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Gas Company and San Diego Gas & Electric Company.

Investigation 03-03-016
(Filed March 13, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING THE TURN MOTION REQUESTING A ONE-DAY EXTENSION
ON INITIAL DISCOVERY DEADLINE
AND GRANTING THE MOTION OF SOUTHERN CALIFORNIA GAS COMPANY
AND SAN DIEGO GAS & ELECTRIC COMPANY
TO STRIKE TURN'S MARCH 15, 2004 DATA REQUESTS**

On March 16, 2003, The Utility Reform Network (TURN) filed a motion seeking a one-day extension to the deadline for the submission of initial discovery requests. Simultaneously Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) filed a motion to strike the same data requests that TURN had submitted late on March 15, 2004. This ruling denies TURN's requested relief and grants SoCalGas and SDG&E's motion.

By a ruling on December 22, 2003, the assigned Administrative Law Judge (ALJ) established a procedural schedule for Phase 2 of these consolidated proceedings. That ruling included a deadline for the submission discovery requests. Subsequently, on January 15, 2004, the ALJ modified the Phase 2 schedule, delayed the proceeding, and modified and clarified the deadlines on discovery:

“ORA and others expressed concern over the inclusion of a cut-off date for discovery. Parties are put on notice that discovery will be limited and all requests should be submitted as soon as possible and in accordance with the discovery deadlines specified in this ruling. This ruling preserves a last-day for initiating discovery with this further clarification: the last opportunity for ORA and all other intervenors to initially request information on any topic intended to be used in this phase is no later than March 12, 2004. Parties are expected to make follow-up requests promptly with specific questions to clarify Applicants’ initial responses.” (P. 2, January 15, 2004 Ruling.)

SoCalGas and SDG&E declined a verbal request for a one-day grace period¹ (otherwise we would not be here) and they seek to rely on the quoted text and proposed to limit the response:

“to only those questions submitted on March 15 that asked for copies of data responses provided to other parties (because SoCalGas and SDG&E did not understand the discovery cut-off to apply to such requests), and to one question that related to material that SoCalGas was revising in errata (such that TURN would not have had an opportunity before March 12 to have conducted discovery about the revised material).” (P. 2, SoCalGas and SDG&E Motion.)

Counsel for TURN accepts responsibility for TURN’s failure to submit its last data requests before the deadline citing a miscommunication on

¹ P. 2, TURN Motion.

March 10, 2004 with TURN's consultant when counsel "misinterpreted the email response as implying that TURN would not submit further data requests."²

Because of other circumstances, this misunderstanding led to the challenged request being submitted on Monday, March 15, 2004, instead of Friday, March 12, 2004.

The two Motions provide sufficient information to allow a prompt ruling at this time without the need of further comments.³ TURN (and its consultant) missed the deadline and therefore SoCalGas and SDG&E need not respond.

This ruling notwithstanding, SoCalGas and SDG&E are urged to consider voluntarily responding to the requests as a matter of professional courtesy and in the interest of improving the parties' understanding of the Phase 2 issues.

IT IS RULED that:

1. The Utility Reform Network (TURN) missed the well-established deadline for initial discovery and therefore Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company's (SDG&E) Motion to Strike is granted.

2. SoCalGas and SDG&E shall provide to TURN the limited information as described in their Motion.

² P. 1, TURN Motion.

³ Allowed by Rule 45(h) of the Commission's Rules of Practice and Procedure.

3. In accordance with the electronic service protocols adopted in this proceeding, no hard copy of this ruling will be served on parties.

Dated March 18, 2004, at San Francisco, California.

/s/ DOUGLAS M. LONG

Douglas M. Long
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have this day served, by electronic mail to the parties to which an electronic mail address has been provided, a true copy of the original attached Administrative Law Judge's Ruling Denying the TURN Motion Requesting A One-Day Extension on Initial Discovery Deadline and Granting the Motion of Southern California Gas Company and San Diego Gas & Electric Company to Strike TURN's March 15, 2004 Data Requests on all parties of record in this proceeding or their attorneys of record.

Dated March 18, 2004, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.